and analogous actions, where this last is an element of damage, specific acts may be admitted to show that the plaintiff could not have been much offended. *Gulerette* v. *McKinley*, 27 Hun (N. Y.) 320. See 1 WIGMORE, EVIDENCE, §§ 210–213. *Contra*, *Gore* v. *Curtis*, 81 Me. 403, 17 Atl. 314. This reasoning has been applied to a libel on chastity. *Smith* v. *Matthews*, 21 N. Y. Misc. 150, 47 N. Y. Supp. 96. But in all these cases of offended virtue the specific conduct shown was impropriety; and the extension to collateral matters in the principal case appears dangerous. *Cf. Barton* v. *Bruley*, 119 Wis. 326, 96 N. W. 815. However, the case seems correct on the ground that where, as in New York, exemplary damages are allowed, truth of some statements in a libel should be admissible to rebut malice. *Contra*, *Fisher* v. *Patterson*, 14 Oh. 418. This has been held in the indistinguishable case where a separable part only of the libel declared on was submitted to the jury. *Holmes* v. *Jones*, 147 N. Y. 59, 41 N. E. 409. But *cf. Gressman* v. *Morning Journal Association*, 197 N. Y. 474, 90 N. E. 1131.

LIENS — LOSS OF LIEN BY REMOVAL OF FIXTURES. — The defendant purchased a house and lot with notice of a vendor's lien thereon, and removed the house to another lot owned by the defendant, without the knowledge of the lienholder. *Held*, that the lienholder may foreclose on the house. *Bowden* v. *Bridgman*, 141 S. W. 1043 (Tex., Ct. Civ. App.).

Wrongfully attaching a chattel of another to realty has been held by some courts not to divest the title to the chattel at law. *McDaniel* v. *Lipp*, 41 Neb. 713, 60 N. W. 81; *Eisenhauer* v. *Quinn*, 36 Mont. 368, 93 Pac. 38. But by the orthodox view the owner of the realty acquires legal title to the fixture. *Peirce* v. *Goddard*, 22 Pick. (Mass.) 559. The tortfeasee may sue only for damages. *Reese* v. *Jared*, 15 Ind. 142. The holder of a lien on a chattel would have no greater right that the lien be preserved at law. *Clark* v. *Reyburn*, 1 Kan. 281. But in equity the tortfeasor should not profit by his wrongful act. *Dakota Land & Trust Co.* v. *Parmelee*, 5 S. D. 341, 58 N. W. 811. All authorities agree that the lienholder may enjoin the removal of fixtures. *Williams* v. *Chicago Exhibition Co.*, 188 Ill. 19, 58 N. E. 611. If the fixture is simply removed without the knowledge or consent of the lienholder, the lien should not be destroyed. *Turner* v. *Mebane*, 110 N. C. 413, 14 S. E. 974. See *Hutchins* v. *King*, 1 Wall. (U. S.) 53, 60. *Contra*, *Buckout* v. *Swift*, 27 Cal. 433. Even when the removed fixture is annexed to other realty, the lien should not be lost as against anyone having notice or not paying value. *Hamlin* v. *Parsons*, 12 Minn. 108; *Partridge* v. *Hemenway*, 89 Mich. 454, 50 N. W. 1084. But relief has been denied when the lienholder did not show that the remaining security was inadequate. *Harris* v. *Bannon*, 78 Ky. 568. Following the view that the preservation of the lien is an equitable matter, it is not enforceable against a *bonâ fide* purchaser. *Verner* v. *Betz*, 46 N. J. Eq. 256, 19 Atl. 206.

LIMITATION OF ACTIONS — NATURE AND CONSTRUCTION OF STATUTE — OPERATION AGAINST PERSON UNDER DISABILITY. — While the plaintiff was an infant the defendant occupied his land adversely for seven years, the period of the statute of limitations. The defendant then abandoned it, but subsequently regained possession. The plaintiff became of age and instituted ejectment after the three years allowed by the statute for bringing suit after removal of disabilities, but within seven years after the defendant regained possession. *Held*, that the action is barred by the statute. *Dewey* v. *Sewanee Fuel & Iron Co.*, 191 Fed. 450 (Circ. Ct., M. D. Tenn.).

The language of many cases is that the statute does not run against disabled parties. See *Little* v. *Downing*, 37 N. H. 355, 368; *Fowler* v. *Pritchard*, 148 Ala. 261, 271, 41 So. 667, 670. Others more accurately say that the statute

operates, although its period is extended by the saving clause in their favor. See *Bunce* v. *Wolcott*, 2 Conn. 27, 33; *Herff* v. *Griggs*, 121 Ind. 471, 476, 23 N. E. 279, 281. For disabilities acquired after disseisin are ineffectual. *Kelley* v. *Gallup*, 67 Minn. 169, 69 N. W. 812. *Cf. McDonald* v. *Hovey*, 110 U. S. 619, 4 Sup. Ct. 142. And the heir, though disabled, takes subject to the time run against the ancestor, disabled or not. *Pim* v. *City of St. Louis*, 122 Mo. 654, 27 S. W. 525; *Davis* v. *Coblens*, 174 U. S. 719, 19 Sup. Ct. 832. It is generally held that possession, unimpeachable when the statute bars entry and action, is title. *Inhabitants of School District* v. *Benson*, 31 Me. 381; *Sharon* v. *Tucker*, 144 U. S. 533, 12 Sup. Ct. 720. But an infant, even after the period for an adult has run, retains a right of action, and until this is barred, the disseisor under the usual statute would have no lawful title. Consequently, his abandonment would necessitate the running of the statute *de novo*. *Overand* v. *Menczer*, 83 Tex. 122, 18 S. W. 301; *Old South Society* v. *Wainwright*, 156 Mass. 115, 30 N. E. 476. The statute here, however, expressly gave the disseisor title after seven years. SHANNON, CODE OF TENN., 1896, § 4456. This may be construed to operate against disabled parties. *Schauble* v. *Schulz*, 137 Fed. 389. *Cf. Jones* v. *Lemon*, 26 W. Va. 629, 635. The decision reconciles this with the provision for infants by letting title pass, subject to be defeated by action within three years after majority. Then abandonment after seven years is immaterial.

MALICIOUS PROSECUTION — PROBABLE CAUSE — ACQUITTAL OF PLAINTIFF AS EVIDENCE. — In an action for malicious prosecution the court refused to charge that if the plaintiff was tried and acquitted this lifted from him the burden of showing want of probable cause. *Held*, that this charge should have been given. *Hanchey* v. *Brunson*, 56 So. 971 (Ala.).

Lack of probable cause is an essential part of the plaintiff's case in malicious prosecution. *Abrath* v. *North Eastern Ry. Co.*, 11 Q. B. D. 440. Since it is the duty of an examining magistrate to hold an accused for trial if there appears to be probable cause for the prosecution, many courts hold that the discharge of the plaintiff by a magistrate is *primâ facie* evidence of want of probable cause. *Barhight* v. *Tammany*, 158 Pa. St. 545, 28 Atl. 135; *Vinal* v. *Core*, 18 W. Va. 1, 42, 69, 70. Other courts hold that such a discharge has no bearing on the question of probable cause. *Israel* v. *Brooks*, 23 Ill. 575; *Davis* v. *McMillan*, 142 Mich. 391, 105 N. W. 862. However this may be, an acquittal shows merely that the accused was not believed, beyond a reasonable doubt, to be guilty, and has no logical bearing whatever on the question whether the defendant, at an earlier time, had reasonable grounds for prosecuting him. It is therefore almost universally held that an acquittal is no evidence — certainly not *primâ facie* evidence — of want of probable cause. *Boeger* v. *Langenberg*, 97 Mo. 390, 11 S. W. 223; *Cullen* v. *Hanisch*, 114 Wis. 24, 89 N. W. 900. The contrary decisions are almost negligible. *Whitwell* v. *Westbrook*, 40 Miss. 311. See *Lunsford* v. *Dietrich*, 93 Ala. 565, 570, 9 So. 308, 310. The burden which the doctrine of the principal case lays upon prosecutors is likely unduly to discourage prosecutions.

MUNICIPAL CORPORATIONS — LIABILITY FOR TORTS — NEGLIGENT MAINTENANCE OF LAND CONDEMNED FOR PARK AFTER STATUTE AUTHORIZING SALE. — A statute authorized the sale of land acquired by a city for a public park. Before it was sold, the plaintiff was injured upon the land, and sued the city for negligence. *Held*, that the city is not liable. *Durkin* v. *City of New York*, 146 N. Y. App. Div. 472, 131 N. Y. Supp. 275.

The authorities are in conflict regarding the liability of municipalities for negligence in maintaining public parks. *Clark* v. *Inhabitants of Waltham*, 128 Mass. 567; *City of Denver* v. *Spencer*, 34 Colo. 270, 82 Pac. 590. The difficulty